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THE HON'BLE SRI JUSTICE E. DHARMA RAO

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WRIT PETITION NO. 16641 OF 2005

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DATED 01.08.2005

Between:

1. Nagaboina Pedda Komuraiah, S/o Veeraiah, aged about 50 years, Occ: Agriculture, Resident of Lenkapally Village, Nallaballi Mandal, Warangal District

Petitioner

and

1. The Special Deputy Collector, Sreeram Sagar Project, L.A. Unit-III, Warangal.

Respondent

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ORAL ORDER:

Heard both sides.

In this Writ Petition, petitioner is seeking a writ of Mandamus, directing the respondent to refer the petitioner application dated 27.9.2004 to Senior Civil Judge, Mahaboobabad under Section 28(3) of the Land Acquisition Act for proper adjudication of the value of lands acquired.

It is submitted that the land of the petitioner in S.No. 34 to an extent of 22 guntas situated at Lenkapally Village was acquired for the excavation of 5 L Minor of DBM 38 of Kakatiya Canal under Section 4(1) of the Land Acquisition Act, which was published on 19.12.1987. The respondent after conducting an enquiry passed the award No. 19/1988-89 on 25.11.1988 fixing the market value of the acquired land at Rs. 9,500/- per acre for dry land and the petitioner received the compensation under protest. At that time he has not sought for reference under Section 18 of the Land Acquisition Act. The other persons whose lands were also acquired under the same notification sought for reference under Section 18 of the Land Acquisition Act and the respondent referred the cases to the Civil Court in O.P.No. 95/1990 on the file of the Principal Senior Civil Judge, Warangal. The learned Judge vide his judgment dated 4.12.1995 enhanced the market value of the acquired lands from Rs. 9,500/- to Rs. 22,500/- per acre for dry lands. It is submitted that the claimants in O.P.No. 95 of 1990 being not satisfied with the enhancement of the Civil Court, preferred an appeal A.S.No. 432 of 1999 and this court by an order dated 5.10.2001 enhanced the compensation from Rs. 22,500/- to Rs. 40,000/- per acre and the Special Leave Petition filed by the Government was dismissed by the Hon'ble Supreme Court on 17.2.2003. On coming to know about the said

enhancement, the petitioner applied for the certified copy of the judgment on 7.12.1995 and certified copy was given on 30.4.1996 and applied for re-determination of the market value of the land for suitable compensation on 29.6.1996. The respondent herein after conducting an enquiry re-determined the compensation under Section 28-A of the Land Acquisition Act and passed Award No. 8/2004-05 dated 27.8.2004 fixing the market value of acquired lands at Rs. 22,500/- per acre for dry lands as fixed by the Principal Senior Judge though the petitioner is entitled for the enhanced compensation of Rs. 40,000/- per acre for dry land as awarded by this court in A.S.No. 432 of 1990. Therefore, the petitioner submitted an application dated 27.9.2005 along with others for referring the matter to the Civil Court under Section 18 of the Land Acquisition Act for proper adjudication of the value and the same is still pending.

In view of the above facts and circumstances, I deem it appropriate to dispose of the Writ Petition with a direction to the respondent to consider the application of the petitioner dated 27.9.2004 and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

ELIPE DHARMA RAO,J

DATED: 1.8.2005

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